

**REMARKS**

Claims 1-2 and 7-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication Number 2006/0280320 (“Song”) in view of Applicants’ Admitted Prior Art (“AAPA”). Claims 3 and 4 were rejected under § 103(a) as being unpatentable over Song, and further in view of U.S. Patent Publication Number 2003/0113546 (“Cho”). Claims 5, 6, 11, and 12 were rejected under § 103(a) as being unpatentable over Song in view of AAPA, and further in view of U.S. Patent Number 3,946,422 (“Yagi”). Claims 9 and 10 were rejected under § 103(a) as being unpatentable over Song in view of AAPA, and further in view of U.S. Patent Publication Number 2003/0076970 (“van Halteren”). Applicants respectfully traverse these rejections for at least the following reasons.

Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1 because Song and AAPA, either alone or in combination, fail to describe or suggest “an outer face of said case is coated by a nonmetallic material in which a deforming temperature is higher than a charge dissipating temperature of said dielectric layer that becomes said electret,” as recited in claim 1. The Office Action concedes that Song and AAPA fail to describe or suggest this feature. Office Action at page 16. However, the Office Action continues to assert that “modifying Song to, instead, coat an outer surface of said case, would be obvious to one of ordinary skill in the art, at the time of the invention.” *Id.*

To this end, the Office Action asserts that Song discloses nonmetallic materials in which a deforming temperature is higher than a charge dissipating temperature of a dielectric layer. *See e.g.*, Office Action at page 15. Assuming, *arguendo*, this assertion is correct, the disclosure of the alleged nonmetallic materials is expressly directed to the internal components of the

microphone within the case, and is completely unrelated to an outer coating of the case holding said internal components.

The Office Action recognizes this shortcoming of Song. *See e.g.*, Office Action at pages, 15, 16. However, the Office Action asserts that “modifying Song to, instead, coat an outer surface of said case, would be obvious to one of ordinary skill in the art, at the time of the invention.” Office Action at page 16. Applicants disagree. Indeed, the teachings of Song points to a completely opposite conclusion and *teaches away* from the instant application. If the Office Action assertion was correct, Song would not have substantially changed the microphone production steps to provide the alleged nonmetallic materials within the case, and would have added the alleged nonmetallic materials outside of the case.

It is only the inventors of the instant application who have discovered that a microphone can be realized simply by slightly changing the conventional microphone production steps. Therefore, the microphone of the instant application is superior in economic efficiency (e.g., production cost of a microphone). *See e.g.*, Application at page 17, lines 9-16.

Furthermore, unlike the instant application, the cited prior art cannot prevent the case of the microphone itself from being heated. The MPEP § 2141.02(III) states that “a patentable invention may lie in the discovery of the source of a problem even though the remedy may be obvious once the source of the problem is identified.” Applicants respectfully submit that when the high temperature resistance material is provided in the outside of the case rather than the inside of the case, the case may not be heated. Similarly, when the high temperature resistance material is provided in the outside of the case, it is possible to block the heat conduction to the case in an early stage of the heat conduction; whereas, when the high temperature resistance material is provided inside the case, it is not possible to block the heat conduction to the case.

Based on the foregoing, Song and AAPA, either alone or in combination, fail to describe or suggest “an outer face of said case is coated by a nonmetallic material in which a deforming temperature is higher than a charge dissipating temperature of said dielectric layer that becomes said electret,” as recited in claim 1. For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 1 is respectfully requested.

### **Double Patenting**

Claims 1-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 1, 4-7, and 10-12 of U.S. Patent Number 6,512,833 in view of Song and AAPA or in view of Song, AAPA and Cho or in view of Song, AAPA, and Yagi. Applicants traverse this rejection because the proposed combinations do not appear to remedy the shortcomings of Song and AAPA to describe or suggest “an outer face of said case is coated by a nonmetallic material in which a deforming temperature is higher than a charge dissipating temperature of said dielectric layer that becomes said electret,” as recited in claim 1.

Claims 1-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 1-5 and 8 of U.S. Patent Number 6,731,766 in view of Song and AAPA or in view of Song, AAPA, and Cho or in view of Song, AAPA, and Yagi. Applicants traverse this rejection because the proposed combinations do not appear to remedy the shortcomings of Song and AAPA to describe or suggest “an outer face of said case is coated by a nonmetallic material in which a deforming temperature is higher than a charge dissipating temperature of said dielectric layer that becomes said electret,” as recited in claim 1.

Claims 1-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 1, 2, 7, 12-15, 18, 19, and 21 of U.S. Patent Number 6,999,596 in view of Song and AAPA or in view of Song, AAPA, and Cho or in view of Song, AAPA, and Yagi. Applicants traverse this rejection because the proposed combinations do not appear to remedy the shortcomings of Song and AAPA to describe or suggest “an outer face of said case is coated by a nonmetallic material in which a deforming temperature is higher than a charge dissipating temperature of said dielectric layer that becomes said electret,” as recited in claim 1.

Claims 1-7 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 1-8 and 14-21 of U.S. Patent Number 7,031,480 in view of Song and AAPA or in view of Song, AAPA, and Cho or in view of Song, AAPA, and Yagi. Applicants traverse this rejection because the proposed combinations do not appear to remedy the shortcomings of Song and AAPA to describe or suggest “an outer face of said case is coated by a nonmetallic material in which a deforming temperature is higher than a charge dissipating temperature of said dielectric layer that becomes said electret,” as recited in claim 1.

Claims 1-7 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 18, 19, 21, 22, 24, and 28-30 of co-pending Application Number 10/576,518 in view of Song and AAPA or in view of Song, AAPA, and Cho or in view of Song, AAPA, and Yagi. Applicants traverse this rejection because the proposed combinations do not appear to remedy the shortcomings of Song and AAPA to describe or suggest “an outer face of said case is coated by a nonmetallic material in which a

deforming temperature is higher than a charge dissipating temperature of said dielectric layer that becomes said electret,” as recited in claim 1.

Claim 1-7 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 4 and 6 of co-pending Application Number 11/661,355 in view of Song and AAPA or in view of Song, AAPA, and Cho or in view of Song, AAPA, and Yagi. Applicants traverse this rejection because the proposed combinations do not appear to remedy the shortcomings of Song and AAPA to describe or suggest “an outer face of said case is coated by a nonmetallic material in which a deforming temperature is higher than a charge dissipating temperature of said dielectric layer that becomes said electret,” as recited in claim 1.

#### **Dependent Claims**

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplicatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Because claim 1 is allowable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also allowable. In addition, it is respectfully submitted that the dependent claims are allowable based on their own merits by adding novel and non-obvious features to the combination.

#### **Conclusion**

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If

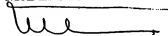
**Application No.: 10/589,281**

there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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